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INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)



Applicant's or agent's file reference PPD 50652/WO	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/GB 03/03499	International filing date (day/month/year) 12.08.2003	Priority date (day/month/year) 22.08.2002
International Patent Classification (IPC) or both national classification and IPC A01N25/28		
Applicant SYNGENTA LIMITED et al		

- This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
- This REPORT consists of a total of 5 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

 These annexes consist of a total of sheets.

- This report contains indications relating to the following items:
 - I ☒ Basis of the opinion
 - II ☐ Priority
 - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☐ Lack of unity of invention
 - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☐ Certain documents cited
 - VII ☐ Certain defects in the international application
 - VIII ☐ Certain observations on the international application

Date of submission of the demand 24.02.2004	Date of completion of this report 03.09.2004
Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer Fort, M Telephone No. +31 70 340-4123 

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/GB 03/03499**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-15 as originally filed

Claims, Numbers

1-14 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

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**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes: Claims	1-14
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	1-14
Industrial applicability (IA)	Yes: Claims	1-14
	No: Claims	

2. Citations and explanations

see separate sheet

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

D1 (JP 6256116) discloses microcapsules containing a carbamate insecticide and a non-aromatic ester such as methyl oleate or isobutyl oleate.

D2 (GB 1513 614) discloses a microcapsule insecticide composition comprising a liquid fill including pyrethroid, an organic solvent and a pyrethrin synergist.

The claimed subject-matter differs from the teaching of the aforementioned prior art in that the active ingredient is present as a non-encapsulated aqueous solution or dispersion. Thus the subject-matter of claims 1-14 is novel (Article 33(2)PCT).

The problem underlying the present invention may be seen as that of providing stable aqueous agrochemical concentrates which contain high levels of adjuvants (oils) and which avoid compatibility problems between oils and agrochemicals that are high electrolytes.

As can be seen from the description, the above problem can be solved by using formulations comprising a non-encapsulated aqueous solution or dispersion of an agrochemical and a suspension of a microencapsulated adjuvant having no interference with the wall-forming process, that is an adjuvant having an HLB of 9 or less.

Independent claim 1 does not include the aforementioned essential technical feature, that is the choice of an adjuvant having an HLB value of 9 or less, contrary to Article 6 in combination with Rule 6 PCT. Therefore, the subject-matter of claim 1 includes formulations which do not solve the above problem.

Furthermore, even if the applicant limits claim 1 as indicated above, the subject-matter of claims 1-14 would not be considered as being inventive since it is known from D3 (D3 = US 4 936 901) that antagonistic action between ingredients can be reduced by means of the capsule shell. The skilled person would consider the possibility of using microencapsulated adjuvants having an HLB of 9 or less all the more since D1 discloses microcapsules containing a mixture of an active ingredient with the same adjuvants as used in the present application. Thus the subject-matter of claims 1-14 cannot be considered as being inventive (Article 33(3) PCT).

The subject-matter of all claims 1-14 is considered to be industrially applicable and the present application is therefore considered to satisfy the criterion set forth in Article

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